

REMARKS

Claims 19 through 54 are pending in the application. The Examiner has required election between Group I (Claims 19-39), Group II (Claims 40-44), and Group III (Claims 45-54). Applicant provisionally elects Group I with traverse.

Applicant respectfully requests reconsideration of the restriction requirement. The species are sufficiently closely related that examination of all of the claims would pose no serious burden on the Examiner. Applicant should not be forced to divide the invention across multiple applications and it is respectfully requested that the election of species requirement be withdrawn and that all claims herein be examined together in their entireties.

The Examiner has not demonstrated that there would be a serious burden if the Groups were to be Examined together. M.P.E.P. §803 states that “if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.” M.P.E.P. § 803 does state that showing separate classification can be shown to show a prima facie serious burden. However, the Examiner has not properly shown separate classification.

As for Group II, drawn to selling placement of products in moving media by time slot, the Examiner alleges that the claims are classified in class 705, subclass 14. Class 705/14 appears to be directed to “Subject matter particularly designed for price reduction of, or premium credit resulting from, the purchase of a commodity or service.” Since Group II is not directed to subject matter particularly designed for price reduction of, or premium credit resulting from, the purchase of a commodity or service, this classification appears to be incorrect and thus, fails to show serious burden.

As for Group III, drawn to selling placement of products in moving media released in a plurality of geographic areas and distributed in a plurality of channels, the Examiner alleges that the claims are classified in class 705, subclass 14. Class 705/14 appears to be directed to “Subject matter particularly designed for price reduction of, or premium credit resulting from, the purchase of a commodity or service.” Since Group III is not directed to subject matter particularly designed for price reduction of, or premium

credit resulting from, the purchase of a commodity or service, this classification appears to be incorrect and thus, fails to show serious burden.

As for Group I, drawn to virtual product placement using a virtual product source, the Examiner alleges that the claims are classified in class 345, subclass 619. Class 345/619 appears to be directed to "Subject matter wherein data representing either a graphic object or a display attribute is manipulated." Upon further inspection of Class 345/619 the notes state, "Examples of the classifiable subject matter included herein are: (1) causing certain image data to be displayed in a specified manner." If the Examiner continues to rely upon this classification then Group II and Group III are more appropriately included within Class 345/619 than Class 705/14. Group II and Group III involve the display of virtual products in a specific manner (i.e., by time slot, geographic region, distribution channel) for the purposes of selling products. Thus, the claims of Group II and Group III are causing a certain image data (i.e., the virtual product image data) to be displayed in a specific manner.

Since the Examiner provides no further evidence of classification, other than that previously stated above, Applicant respectfully submits that the claims be classified together and, therefore, "the search and examination of the entire application can be made without serious burden" and the restriction requirement be withdrawn.


CONCLUSION

In light of the forgoing, reconsideration and allowance of the claims is earnestly solicited.

Respectfully submitted,
Gateway, Inc.

Dated: June 4, 2003

By:


R. Christopher Rueppell
Reg. No. 47,045

SUITER • WEST PC LLO
14301 FNB Parkway, Suite 220
Omaha, NE 68154
(402) 496-0300 telephone
(402) 496-0333 facsimile